

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2550 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ARVIND R PAREKH

Versus

STATE OF GUJARAT

Appearance:

Mr. V.H. Desai, learned advocate for petitioners
Mr. A.J. Desai, learned A.G.P. for respondent No.1
Mr. J.D. Ajmera, learned advocate for Respondents
No.2 & 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 13/08/96

ORAL JUDGEMENT

The petitioner has filed this petition inter alia praying that the impugned order of termination dated 24.5.1981 be quashed and set aside.

The petitioner has averred in the petition that

his name was recommended by the Employment Exchange, Amreli and as there was vacancy, he was called for interview and after selection, his name was shown at Sl. No.16. It is further averred that pursuant to the said selection, respondent No. 3 has issued an order 24.2.1981, appointing him. Copy of the said order is at Annexure 'D'. Reading the same it appears that the petitioner was appointed as Workcharge Clerk for a period of three months only, with further intimation that on expiry of the said term, his services shall come to an end automatically. His grievance is that when he was selected, he ought to have been given a regular appointment.

It appears that about 38 persons who were working on Workcharge basis for about 15 to 20 years filed Special Civil Application No. 3881 of 1981 before this Court and the Court restrained the respondents of that petition from terminating the services of the petitioners of that petition. Mr. Ajmera, learned advocate requested this Court to call for the record and proceedings of Spl. C.A. No. 3881/81 and it was called for. I have perused the same. That petition was decided by this Court (Coram: V.H. Bhairavia, J.) on 16th December 1993. The petition was filed by District Panchayat Technical Employees Association, Amreli through its Chairman praying for a writ of mandamus directing the respondents to absorb them in the regular cadre of Clerks in the respondent Department pursuant to Resolution of the Government dated 26.11.1980. It was pointed out that they were working as Workcharge Clerks since last more than 10 years and, therefore, their services should be regularised. Considering the materials placed before the Court, the Court accepted the contention and directed "that the petitioners be treated in the regular cadre post of Clerks from the date on which they were eligible for absorption in pursuance to the circulars Annexures 'B' and 'C' respectively with consequential benefits including seniority, promotion, etc."

Annexure 'A' to the present petition is at annexure 'C' to Spl. C.A. No. 3881/81. In the present petition, it is averred that by accommodating those workcharge employees, regularly selected candidates should not be put in an adverse situation. In Spl. C.A. No. 3881/81, the Court directed to first regularise the services of those persons who were working as workcharge clerk since last more than 10 years, and, therefore, the respondents therein are duty-bound to implement the orders of the Court by regularising the services of those persons and the petitioner cannot make any grievance that

they should not be regularised. So far as the petitioner is concerned, he was appointed on a purely temporary basis. Merely because he was interviewed does not mean that he should be given a permanent post. It depends upon the vacancy. In the order appointing the petitioner, it was made abundantly clear that the appointment is on a purely workcharge, temporary basis which will automatically come to an end on the expiry of three months. The request of the petitioner to regularise his services merely because the petitioners of Spl. C.A. No. 3881/81 are regularised, is not justified and cannot be accepted, and, therefore, the petition is required to be rejected.

Mr. Ajmera, learned advocate pointed out that the services of the petitioner came to be terminated in the year 1981 but this petition is filed only in 1985 and, therefore, this petition is also required to be rejected on the ground of delay and latches. This Court is in agreement with this submission made by the learned advocate.

In the result, this petition rejected. Rule is discharged. No order as to costs.

csm./